

DOCKET NO.: UNMC-0027
Application No.: 09/817,748
Office Action Dated: July 13, 2004

**PATENT
REPLY FILED UNDER EXPEDITED
PROCEDURE PURSUANT TO
37 CFR § 1.116**

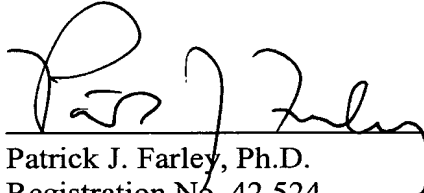
REMARKS

This is being filed in response to the Office Action dated July 13, 2004. A petition for a one-month extension of time is included.

The Examiner indicates that the rejection under the judicially-created doctrine of obviousness-type double patenting over U.S. Patent No. 6,323,024 was maintained as no terminal disclaimer was scanned into the file. Applicants herein provide the Examiner with a copy of the return postcard which indicates that such a terminal disclaimer was received. Applicants also provide another courtesy copy of the filed terminal disclaimer for the Examiner's convenience.

Applicants believe that all grounds of rejection are now removed and the application is in condition for allowance. Applicants respectfully urge prompt allowance of the claims.

Respectfully submitted,



Patrick J. Farley, Ph.D.
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Date: November 4, 2004

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DOCKET NO.: UNMC-0027 (63116 US.1)

COPY

PATENT



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of:

Steven M. Tracy and Nora M. Chapman

Confirmation No.: 7857

Application No.: 09/817,748

Group Art Unit: 1636

Filing Date: March 26, 2001

Examiner: Guzo, David

For: Cocksackievirus Vectors And Their Use In Prevention And Treatment Of Disease

**TERMINAL DISCLAIMER TO OBVIATE A DOUBLE
PATENTING REJECTION OVER A PRIOR PATENT**

The owner, **Board Of Regents Of The University Of Nebraska**, of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 to 156 and 173, as presently shortened by any terminal disclaimer, of prior Patent No. **6,323,024**. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 to 156 and 173 of the prior patent, as presently shortened by any terminal disclaimer, in the event that it: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR § 1.321, has all

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claims cancelled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

(Check either box 1 or 2 below, if appropriate)

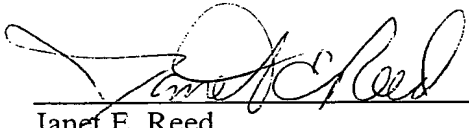
☐ For submissions on behalf of an organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the organization.

☐ The required statement under 37 CFR § 3.73(b) is attached.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

☒ The undersigned is an attorney of record.

Date: 3/17/04



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**RECEIVED BY THE UNITED STATES
PATENT AND TRADEMARK OFFICE**

Paper: Reply Transmittal Letter with U.S. Mail Certification (in duplicate); Reply Pursuant to 37 CFR §1.111 with U.S. Mail Certification; Terminal Disclaimer to Obviate Double Patenting Rejection Over a Prior Patent (Patent No. 6,323,024) and Terminal Disclaimer to Obviate A Double Patenting Rejection Over a Prior Patent (Patent No. 6,017,742); check in the amount of \$110.00; Return Postcard

Applicant(s): Steven M. Tracy; Nora M. Chapman

Title: Cocksackievirus Vectors ~~And~~ Their Use In Prevention And Treatment Of Disease

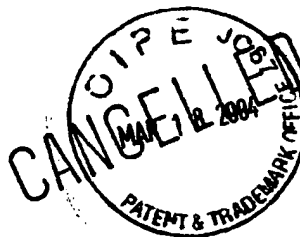
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Sent By: J. Reed/Jmatteo



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